

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JAMES JOSEPH WYMER, JR.,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-07-549-R
)	
MARTY SIRMONS, WARDEN,)	
)	
Respondent.)	

ORDER

Before the Court is the Report and Recommendation of the United States Magistrate Judge Valerie K. Couch entered February 26, 2008 [Doc. No. 26]. Also before the Court is “Petitioner’s Objections to the Findings and Recommendation of the Magistrate.” Doc. No. 29. Most of the pleading constituting Petitioner’s “Objections” is incomprehensible. The Court does understand, however, that Petitioner is asserting in his Objections that the Summary Opinion of the Oklahoma Court of Criminal Appeals should not be accorded the deference usually accorded under 28 U.S.C. § 2254(d).

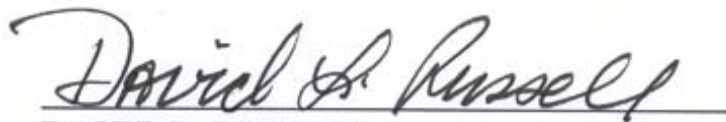
Pursuant to 28 U.S.C. § 636(b)(1)(B), the Court reviews the Report and Recommendation de novo in light of Petitioner’s “Objections.”

“A state court’s decision is not contrary to clearly established federal law even if a state court has no awareness of controlling Supreme Court precedent, ‘so long as neither the reasoning for the result of the state-court decision contradicts [Supreme Court] precedent.’” *Stevens v. Ortiz*, 465 F.3d 1229, 1235 (10th Cir. 2006) (quoting *Early v. Packer*, 537 U.S. 3, 8, 123 S. Ct. 362, 154 L.Ed.2d 263

(2002)), cert. denied, ___ U.S. ___, 127 S. Ct. 1833, 167 L.Ed.2d 322 (2007). When the Court reviews a summary disposition or opinion of a state court, the Court focuses on the result rather than the reasoning, see id., as the Magistrate Judge did herein. The same deferential standards set forth in 28 U.S.C. § 2254(d) apply to a summary disposition. The Court defer[s] to the [state appellate court's] decision unless ... [it] conclude[s] that its result – not its rationale – is legally or factually unreasonable.” *Gipson v. Jordan*, 376 F.3d 1193, 1197 (10th Cir. 2004). See *Aycox v. Lytle*, 196 F.3d 1174, 1177-78 (10th Cir. 1999). Accordingly, the Magistrate Judge properly applied deference to the results in the OCCA Summary Opinion and correctly concluded that the results reached therein were not contrary to, and did not involve on unreasonable application of, clearly established federal law as established by Supreme Court precedent. With respect to Petitioner's sufficiency of the evidence claim, the Magistrate Judge accorded the OCCA's finding and conclusion the deference required by 28 U.S.C. § 2254(d) and 28 U.S.C. § 2254(e).

Having reviewed the Report and Recommendation de novo in light of Petitioner's Objections, the Court ADOPTS the Report and Recommendation in its entirety and DENIES the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

IT IS SO ORDERED this 22nd day of April 2008.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE

